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AZERBAIJAN

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GENERAL

A. THE COUNTRY AND ITS PEOPLE

1. On 1 January 1993, the Azerbaijani Republic had 7,368,000 inhabitants, of whom 3,933,000 or 53 per cent, were urban dwellers and 3,435,000, or 47 per cent, lived in rural areas.

2. Average annual population growth for 1990-1992 was 79,000, against 102,000 in the previous decade. The decline in the rate of growth is linked to increasingly heavy migration, with people moving beyond the Republic's borders.

3. The composition of the population by sex and age is as follows: 3,609,000, or 49 per cent, are men and 3,759,000, or 51 per cent, are women; 35.3 per cent are below working age (0-15 years), 54.4 per cent are of working age (men 16-59 years, women 16-54 years) and 10.3 per cent are of pensionable age.

4. Some 33.4 per cent of the population are below 15 years of age and 4.9 per cent are over 65.

5. The average age of the population is 27.

6. Population growth in the Republic is due to a natural population shift, namely the birth rate.

7. In 1992, there were 181,364 live births.

8. The birth rate in the Republic is quite high. In the context, however, of a worsening demographic situation, the birth rate has also fallen and is now 25.2 births per 1,000 inhabitants, compared with 27.0 in 1991.

9. On average, a woman will have about three babies during her lifetime (general fertility 2.87). Thus present fertility levels maintain continuing modest population growth.

10. The death rate in the Republic is typically relatively low and stable. Nevertheless, in 1992, there were 51,258 deaths, or 7.1 per 100 inhabitants, representing a 0.8 per cent increase on 1991 (6.3 per cent).

11. The level of mortality is reflected in the figure for life expectancy, which, in 1991, was 70.5 years, or 66.3 years for men and 74.5 years for women.

12. Most acute is the problem of infant mortality, which is comparatively high, at 25.5 deaths before the age of one per 1,000 births in 1992. Altogether 4,708 children in the Republic died before the age of one in that year.

13. Perinatal mortality, calculated per 100,000 births, was 17.6 women.

14. The migratory balance has typically been negative for a number of years. In 1992, it amounted to a net loss of 61,300 people, of whom 2,900 went to countries beyond the former Soviet Union.

15. The high level of migration in the Republic, as in the majority of countries of the former USSR, has been exacerbated over recent years by the growth of socio-economic tensions.

16. There are more than 70,000 marriages annually in the Republic and 9,000 marriages are dissolved. In 1992, there were 9.5 marriages per 1,000 people, and 1.3 divorces.

17. According to the 1989 census, 644 men were married [per 1,000 inhabitants of 16 years or over], and 309 had never been married; the figures for women were 594 and 227 respectively.

18. According to census data, there were 4,241 illiterates in the age group 9-49 years (0.1 per cent of this age group), the majority of whom had been unable to attend school because of physical handicaps or chronic illness. Of those aged 15 years or over, 2.7 per cent are illiterate, the majority being elderly.

19. Azerbaijan is a Republic of many nationalities.

20. The 1989 census recorded 5,805,000 (82.7 per cent) Azerbaijanis, 392,000 (5.6 per cent) Russians, 391,000 (5.6 per cent) Armenians, 171,000 (2.4 per cent) Lezgins, 44,000 (0.6 per cent) Avars, 32,000 (0.5 per cent) Ukrainians, 31,000 (0.5 per cent) Jews, 29,000 (0.4 per cent) Tatars and 126,000 (1.7 per cent) members of almost 90 other nationalities.

21. The last census showed that 97.3 per cent of the population considered that their native tongue was the language of their own nationality and 2.7 per cent considered it to be the language of another people. In the census, 291,000 non-Azerbaijanis, or 23.9 per cent, named Azerbaijani as their native language or as a second language which they spoke fluently and 2,302,900 non-Russians, or 34.8 per cent, named Russian.

22. In the Republic there are now more than 200 working mosques, 5 Russian Orthodox churches, 3 synagogues, 1 Georgian Orthodox church, 1 New Apostolic church and 38 houses of prayer.

23. GDP in 1992 at current prices was 108.2 billion roubles, or 64.8 per cent of the 1991 level. Per capita expenditure on goods and services was 24,983 roubles, 36 per cent less than the previous year. The fall in GDP is linked with declining output in the productive sector, which accounts for the bulk of gross domestic product - 80 per cent. Industry accounts for 45 per cent, agriculture nearly 30 per cent and construction 7 per cent.

24. As a result of social welfare measures necessitated by rising prices for consumer goods and services, nominal monetary incomes of the people of the Azerbaijani Republic in 1992 amounted to 92.6 billion roubles, 4.9 times more than in the previous year. However, consumer prices multiplied by 12.1 over this period, outstripping the increase in nominal incomes and eroding the purchasing power of the rouble, so that real incomes were only 41 per cent of their 1991 levels.

25. In 1992, per capita income in the Republic was 12,633 roubles.

26. In the first eight months of this year, the consumer price index rose 289.3 per cent.

B. GENERAL POLITICAL FOUNDATIONS

27. The Constitutional Act on the State Independence of the Azerbaijani Republic states: On 28 May 1918, the National Council of Azerbaijan passed the Declaration of Independence, thereby reviving the Azerbaijani people's centuries-old tradition of statehood.

The Azerbaijani Republic enjoyed complete political authority within its territory and pursued independent foreign and domestic policies. Institutions characteristic of an independent State - the parliament, government, army and financial system of the Azerbaijani Republic - were created and began to function. The Azerbaijani Republic was recognized by many foreign States and established diplomatic relations with them. But on 27 and 28 April 1920, in flagrant violation of international law, the RSFSR, without declaring war, moved units of its armed forces into Azerbaijan, occupied the territory of the sovereign Azerbaijani Republic, overthrew by force the lawfully elected government bodies and put an end to the Republic's independence, won at the cost of enormous sacrifices by the Azerbaijani people.

Subsequently, Azerbaijan, as in 1806-1828, was annexed by Russia.

The Treaty of Union of 30 December 1922, establishing the USSR, consolidated the annexation. For the next 70 years a colonial policy was applied to the Azerbaijani Republic, its natural resources were ruthlessly exploited, its national riches plundered, the Azerbaijani people was subjected to persecution and repression and its national dignity violated. In spite of this, the Azerbaijani people continued its struggle for independence.

The outcome of this struggle was the Declaration on the Re-establishment of the State Independence of the Azerbaijani Republic, passed by the Supreme Soviet of the Azerbaijani Republic on 30 August 1991.

The people of Azerbaijan are setting up an independent, secular, democratic, unitary State, whose sovereign power in internal affairs is limited only by law and in external affairs only by the provisions of treaties and agreements to which the people of Azerbaijan have freely expressed their consent.

The sovereignty of the Azerbaijani Republic is indivisible and extends over the whole of its territory. The Azerbaijani Republic does not cede in any way whatsoever those sovereign rights which it exercises within its territory to any other State or union of States.

State power in the Azerbaijani Republic is based on the principle of the separation of powers.

Legislative power is exercised by the Parliament of the Azerbaijani Republic and supreme executive power by the President of the Azerbaijani Republic, the head of the Azerbaijani State.

Judicial power is exercised by the independent courts and, in the highest instance, the Constitutional Court of the Azerbaijani Republic, the Supreme Court of the Azerbaijani Republic and the High Court of Arbitration of the Azerbaijani Republic, each within the limits of its authority.

The limits of legislative power are defined by the Constitution of the Azerbaijani Republic, those of executive and judicial power by the Constitution of the Azerbaijani Republic, its laws and statutes.

C. GENERAL LEGAL FOUNDATIONS FOR THE PROTECTION OF HUMAN RIGHTS

GENERAL JUDICIAL FRAMEWORK

28. In its report, the Government of the Azerbaijani Republic will try to give a general picture of the judicial framework within which civil and political rights are protected in Azerbaijan.

29. Article 19 of the Constitutional Act on the State Independence of the Azerbaijani Republic states:

> "All citizens of the Azerbaijani Republic are equal before the law. The Azerbaijani Republic subscribes to the Universal Declaration of Human Rights, the Helsinki Final Act and other generally recognized international legal documents and shall ensure that all the rights and

freedoms envisaged in them are observed and may be exercised without hindrance, irrespective of sex, race, nationality, religion, social origin, political convictions or any other factor".

30. Chapter 6 of the Constitution of the Azerbaijani Republic is devoted to the fundamental rights and freedoms of citizens of Azerbaijan. There follows a summary of the chief articles of this chapter.

Article 37. Citizens of the Azerbaijani Republic shall enjoy all the socio-economic, political and individual rights and freedoms proclaimed in and guaranteed by the Constitution and laws of the Azerbaijani Republic.

Article 38. Citizens of the Azerbaijani Republic shall have the right to work - that is, to a secure job paid according to the quantity and quality of work performed, but at not less than the minimum level fixed by the State - including the right to free choice of profession, type of occupation and work in keeping with their vocation, capabilities, vocational training and education, taking into account the needs of society.

Article 39. Citizens of the Azerbaijani Republic shall have the right to leisure.

Article 40. Citizens of the Azerbaijani Republic shall have the right to health care.

Article 41. Citizens of the Azerbaijani Republic shall have the right to material provision in old age or in the event of illness, full or partial disablement, or loss of the breadwinner.

Article 42. Citizens of the Azerbaijani Republic shall have the right to housing.

Article 43. Citizens of the Azerbaijani Republic shall have the right to education.

Article 44. Citizens of the Azerbaijani Republic shall have the right to enjoy the benefits of culture.

Article 45. Citizens of the Azerbaijani Republic shall be guaranteed freedom of scientific, technological and artistic creation. Intellectual property shall be protected by the State.

Article 46. Citizens of the Azerbaijani Republic shall have the right to take part in the conduct of public and social affairs and in the discussion and adoption of laws and decisions at local and national level.

Article 47. Every citizen of the Azerbaijani Republic shall have the right to submit to State agencies and public organizations proposals for improving their operations, and to criticize deficiencies in their work.

Officials shall be obliged to examine citizens' proposals and statements within the established period and take any necessary measures. Persecuting citizens for voicing criticism is forbidden, and anyone doing so shall be brought to account.

Article 48. Citizens of the Azerbaijani Republic shall be guaranteed freedom of speech and of the press and freedom to attend assemblies, rallies, parades and demonstrations.

Article 49. Citizens of the Azerbaijani Republic shall have the right to form political parties, trade unions and other public organizations.

Article 50. Citizens of the Azerbaijani Republic shall be guaranteed freedom of conscience, that is the right to profess any religion or none, to lead religious worship and to engage in atheistic propaganda. Incitement to religious enmity or hatred is forbidden.

Article 51. The family is protected by the State. Marriage is based on the free consent of the man and the woman; the spouses have equal rights in family relations.

Article 52. Citizens of the Azerbaijani Republic shall be guaranteed inviolability of the person. No one may be arrested other than on the basis of a judicial decision or with the sanction of the public prosecutor.

Article 53. Citizens of the Azerbaijani Republic shall be guaranteed inviolability of the home. No one has the right to enter another's home against the will of those living there except on legal authority.

Article 54. Citizens' private lives and the confidentiality of letters, telephone conversations and communications by telegraph shall be protected by law.

Article 55. It is the duty of all State agencies, social organizations and officials to respect the individual and to protect his rights and freedoms.

Citizens of the Azerbaijani Republic shall have the right to the protection of the law against attacks on their honour and dignity, life and health, personal freedom and property.

Article 56. Citizens of the Azerbaijani Republic shall have the right to lodge complaints against the actions of officials and of State and public bodies. Such complaints must be examined under the procedures and within the time limits established by law.

Appeal against actions by officials in breach of the law or exceeding their authority that impinge citizens' rights may be lodged with the courts according to the procedure established by law.

Citizens of the Azerbaijani Republic shall have the right to compensation for damage caused by the unlawful actions of government organizations, political parties, trade unions and public organizations, or officials in the course of their duties.

31. The proclamation of these rights in the Constitution means that their applicability arises directly from the country's basic law and this reinforces the guarantees of their protection.

32. Violations of the human rights and freedoms stipulated by the Constitution are forbidden in national legislation and are severely punished.

A whole chapter of the Criminal Code is devoted to crimes against citizens' political rights, setting forth the penalties under criminal law for obstructing equality of rights for women (art. 131), violations of the inviolability of the home (art. 132), violations of the confidentiality of letters, telephone conversations and communications by telegraph (art. 133), obstruction of citizens' right to vote (art. 134), forgery of electoral documents, irregularities in the counting of votes or violations of the principle of the secret ballot (art. 135), infringement of labour legislation, i.e. the unlawful sacking of workers for personal motives or failure to carry out court orders on reinstatement, and other infringements of labour legislation by State officials or public enterprises, institutions and organizations (art. 136), violations of industrial safety regulations by officials, if these put the life and health of workers at risk or result in injury (art. 137), violations of the labour rights of pregnant women or nursing mothers (art. 138), persecution of citizens for voicing criticisms (art. 138-1), violations of the rights of trade unions (art. 139), violations of intellectual property rights (art. 140), interference with religious ceremonies (art. 142).

33. Furthermore, the Criminal Code contains many provisions punishing attempts on or any other kind of infringements of the physical inviolability of individuals (chap. 3 - Crimes against the individual).

34. The protection of human rights is provided for in various fundamental legal documents and in various branches of law, in particular: the Criminal Code, the Code of Criminal Procedure, the Civil Code, the Code of Civil Procedure, the Correctional-Labour Code, the Code on Marriage and the Family, and the freedom of religion, mass media, political parties and citizenship Acts.

Judicial, Administrative and other Competent Bodies with Jurisdiction over Human Rights

The Judicial System

35. In accordance with article 163 of the Constitution: "Justice shall be administered in the Azerbaijani Republic only by the courts." These are:

The Supreme Court of the Azerbaijani Republic;

The Supreme Court of the Nakhichevan Autonomous Republic;

The Baky Town Court;

The district (town) people's courts;

Military tribunals.

The Constitutional Court envisaged in the Basic Law has not yet been created. A bill on the Constitutional Court is currently in preparation.

36. The organization and operating procedures of courts in the Azerbaijani Republic are defined in the Law "On the judicial system of the Azerbaijani Republic" of 26 June 1990.

The Law "On the judicial system of the Azerbaijani Republic" defines the tasks of the courts, requiring them in administering justice to defend against any infringement the social order and political and economic systems laid down in the Constitution of the Azerbaijani Republic; the sovereignty of the Azerbaijani Republic; citizens' socio-economic, political and personal rights and freedoms as proclaimed in and guaranteed by the Constitution, and the laws passed in accordance with them; the rights and legal interests of enterprises, institutions and organizations, amalgamations of such enterprises, institutions and organizations, and public organizations.

Everything the courts do is intended to strengthen by all possible means the legal institutions of the State, legality and law and order, to uphold the principle of social justice, to ensure democracy and continued development of popular self-determination, to prevent infringements of the law, to inculcate in citizens strict and unswerving compliance with the Constitution of the Azerbaijani Republic and the laws passed in accordance with it, and to respect citizens' rights, honour and dignity (art. 3).

The Constitution of the Azerbaijani Republic enshrines the principle of an independent judicial system. Judges and people's assessors are independent and are answerable only to the law.

Judges and people's assessors are guaranteed conditions such that they may exercise their rights and fulfil their responsibilities effectively and without hindrance.

Any interference with the administration of justice by judges and people's assessors is inadmissible and punishable by law.

Justice is administered in the Azerbaijani Republic on the principle that all citizens are equal before the law and the courts (art. 168), irrespective of birth, social, professional or property status, race or nationality, sex, education, language, religion, type and nature of occupation, place of residence and other factors (art. 6).

Justice is administered in the Azerbaijani Republic in the following ways:

Civil cases, involving the defence of the rights and legal interests of citizens, enterprises, institutions and organizations, are examined and settled at judicial hearings;

Criminal cases are examined at judicial hearings, the accused are judged, then those guilty of a crime are sentenced to the punishments fixed by law, or the innocent are acquitted (art. 4).

People's judges and judges in administrative and executive matters at district (town) people's courts deal with administrative infringements of the law assigned to their jurisdiction by the legislation of the Azerbaijani Republic (art. 5).

Administrative bodies

37. The Head of State of the Azerbaijani Republic is the President of the Azerbaijani Republic.

The President of the Azerbaijani Republic exercises supreme executive power in the Azerbaijani Republic and presides over the Cabinet of Ministers of the Azerbaijani Republic (art. 121-1 of the Constitution).

The Cabinet of Ministers is an executive and decision-making body of the Azerbaijani Republic subordinate to the President of the Azerbaijani Republic (art. 122).

The Cabinet of Ministers consists of the Prime Minister, his deputies, ministers and the heads of other central bodies of the State administration of the Azerbaijani Republic (art. 123).

The Office of the Public Prosecutor of the Azerbaijani Republic ensures that its laws are followed strictly and uniformly by the organs of the State administration, enterprises, institutions and organizations, the local authorities, public organizations and officials, and by citizens within the territory of the Azerbaijani Republic (art. 176).

Means of Legal Protection

38. Any resident of the Republic of Azerbaijan who suffers an infringement of his basic rights has at his disposal a whole range of different means allowing him to resolve this situation, irrespective of whether the infringement was committed by private individuals or resulted from the actions of State officials.

39. Article 50 of the Code of Criminal Procedure states that an injured party, i.e. anyone who has suffered damage to his reputation, person or property as a result of a crime, and his representative have the right to: submit evidence; petition the court; examine all documents relating to a case once the preliminary investigation has been concluded; take part in the court examination; raise objections, lodge a complaint against the person leading the inquiry, the investigator, the public prosecutor or the court, and appeal against the verdict or judgement of the court and the decisions of people's judges.

Anyone who has suffered material damage as a result of a crime is entitled in the course of the criminal hearing to bring a civil action against

the accused or those persons materially responsible for the actions of the accused, and this civil action will be examined by the court at the same time as the criminal charges (art. 51).

A criminal case may be brought in response to:

1. A statement made by a citizen;

2. Information provided by a trade union or other public organization;

3. Information provided by an enterprise, institution, organization or official;

4. Information published in the press;

5. A confession;

6. The direct discovery by a prosecutor, investigator, agency leading an inquiry or court of circumstances indicating that a crime has been committed (art. 104).

The defendant, his counsel and legal representative, and the injured party and his legal representative, may appeal to have the court's verdict quashed.

The public prosecutor is required to apply for any unlawful or unjustified verdict to be quashed, irrespective of whether he supported the prosecution in the court of first instance.

The civil plaintiff, civil respondent and their representatives may protest against that part of the verdict which concerns the civil suit.

Anyone acquitted by the court may lodge an appeal against the verdict on account of the motives or grounds for acquittal (art. 344).

Other Measures Taken to Ensure that Provisions of the Covenant are Applied

40. The Azerbaijani Republic, having ratified the Covenant and thereby recognized all the provisions set forth within it, has undertaken a detailed revision of the judicial acts currently in force in order to put the principles behind these provisions into practice.

41. In the very brief time since the adoption of the Constitutional Act on the State Independence of the Azerbaijani Republic on 18 October 1991, significant moves have been made towards democratic reform, the safeguarding of human rights and freedoms by the State and the construction of a democratic, law-based State.

42. All sections of society are actively involved in the reform process, through numerous political organizations and associations of a non-political character which enjoy complete freedom of speech and association.

43. Work is under way in the Republic on a large number of new laws. In addition to the political parties, social organizations, mass media, education, freedom of religion and official language Acts already passed and the numerous amendments to other Azerbaijani legislation and to a small number of laws of the former USSR which have remained in force within the territory of the Republic, new bills on health, trades unions and freedom of entry to and exit from the Azerbaijani Republic have been presented to the Parliament of the Azerbaijani Republic and work is under way on a new Constitution (Basic Law).

44. The Azerbaijani Republic has also acceded to a number of international legal documents on human rights. Besides the International Covenant on Civil and Political Rights, these include the International Covenant on Economic, Social and Cultural Rights, the United Nations Convention on the Rights of the Child, the World Declaration on the Survival, Protection and Development of Children, the Geneva Conventions, the Convention on the Political Rights of Women, the Convention and Protocol relating to the Status of Refugees, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, and Conventions of the International Labour Organisation. The National Assembly of Azerbaijan is considering proposals from various organizations, enterprises, ministries, departments and public associations for accession to a large number of international legal documents.

45. The processes of building a democratic society and implementing economic reform have been beset by fundamental difficulties due to the war forced on Azerbaijan, which has continued for more than five years and has led to the occupation of a significant part of the territory of Azerbaijan by the neighbouring Republic of Armenia. The aggression by the Republic of Armenia has led to huge losses amongst the civilian population, and more than a million people have become refugees or have been forced to resettle.

46. In spite of this, the Azerbaijani Republic reaffirms its commitments: it will make every effort within its power to carry out democratic reforms, enable basic human rights and freedoms to be afforded and respected, and construct a democratic, secular State.